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UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Pradier et al.

Serial No.: 08/716,209 Group Art Unit: 1818

International Filing Date: 02 March 1995 Examiner: S. Gucker

For: RECOMBINANT ADENOVIRUSES CODING FOR BRAIN-DERIVED
NEUROTROPHIC FACTOR (BDNF)

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Paula L. Dickey

(Type or print name of person mailing paper)

Date: August 28, 1997

Paula L. Dickey

(Signature of person mailing paper)

To the Assistant Commissioner for Patents

Washington, D.C. 20231

Response to Restriction Requirement under 37 C.F.R. § 1.499

In response to the restriction requirement under 37 CFR § 1.499 mailed July 29, 1997 (Paper No. 9), Applicants provisionally elect Group I (claims 27-41 and 48-50 drawn to a defective recombinant-adenovirus encoding BDNF) with traverse. Applicants respectfully request reconsideration of the restriction requirement in view of the following remarks.

REMARKS

The Examiner contends that this application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT Rule 13.1:

Group I, claim(s) 27-41 and 48-50 are drawn to defective adenovirus encoding BDNF and host cells.

Group II, claim(s) 42-43, drawn to methods of using adenovirus encoding BDNF.

Group III, claim(s) 44-47, drawn to pharmaceutical compositions of adenovirus encoding BDNF.

Group IV, claim(s) 51-54, drawn to implants.

The Examiner alleges that the inventions listed as Groups I-IV do not related to a single inventive concept because Barde et al. (1993) teach an adenovirus encoding BDNF (column 18, line 32 to column 20, line 25), and therefore, the technical feature linking the inventions of Groups I-IV does not constitute a special technical feature.

In response, Applicants elect to prosecute the invention of Group I, claims 27-41 and 48-50 drawn to a defective recombinant-adenovirus encoding BDNF, with traverse.

Applicants respectfully submit that the technical feature of the present invention relates to a defective adenovirus encoding BDNF, pharmaceutical compositions and implants comprising this defective virus, and uses thereof. Barde neither teaches nor fairly suggests a defective recombinant adenovirus. Thus, the special technical feature of the invention clearly defines a contribution each of the claimed inventions makes over the prior art. PCT Rule 13.2. According, the requirements for unity of invention are satisfied and all of the groups of claims should be examined in a single application.

In view of the foregoing remarks, Applicants respectfully submit that the requirement for election is obviated and should be withdrawn. All of the claims should fairly be examined in a single application.

Respectfully submitted,

Date: Aug 28, 1997

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